

TELEGRAM Department of State

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TOCED 564.

1. As Mission aware, Department has received protests by  
 note from thirteen governments concerning Federal Maritime  
 Commission action ordering production of documents and other  
 information pursuant to Commission's investigation of disparities  
 between export and import freight rates on number specific  
 commodities. European and Japanese arguments were that (a) US  
 was unilaterally attempting to regulate ocean freight rates and  
 (b) demand for documents and information located outside US  
 exceeded US jurisdictional authority. This subject was also  
 actively discussed in recent meeting OECD Maritime Transport  
 Committee from which resulted memorandum signed by thirteen  
 delegations to OECD Council.

FROM: Griffith, Margaret  
 E - Griffith, Margaret, 1-2-64

Telegraphic transmission and  
 classification approved by:

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In recent years US Congress has shown continuing interest in subject of ocean freight rates established by shipping conferences. This was subject of intensive study by the House Merchant Marine and Fisheries Committee and also by Antitrust Subcommittee of the House Judiciary Committee over a two-year period, resulting in passage Public Law 87-346 (called Bonner Bill) which directed Maritime Commission to tighten up procedures in carrying out responsibilities assigned by Congress with respect to <sup>freight</sup> ~~freight~~ rates set by shipping conferences. During past six months Joint Economic Committee of Congress has actively pursued study of influence of ocean freight rates on US balance of payments problem. That Committee, headed by Senator Douglas, has urged Commission take corrective action to attempt to remove disparities between outbound and inbound freight rates on certain commodities.

Congressional concern with this problem is shared by both Maritime Commission and Executive Branch. As you know, agreements, understandings, etc. of shipping conferences are granted anti-trust immunity under US law upon approval by FMC. This is justified on ground that public interest may be served by conference restrictions on competition within maritime industry and protected by regulatory functions of Federal Agency.. At the same time, US law clearly contemplates that governmental regulation will be exercised so as to assure fair and equitable treatment US shippers and US commerce generally. Indications that conference rate making has led to discriminatory or inequitable rates in US export-import trade

clearly

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clearly provide basis for investigation and, if necessary, regulatory remedies.

It was against above background that the Maritime Commission in November requested eight outbound conferences engaged in foreign commerce between US and UK, Europe and Japan, to end alleged disparities in freight rates on a number of selected commodities which may discriminate against the American exporter and favor his foreign competitor. Commission asked conferences either make appropriate adjustments in such rates or explain or justify apparent disparities. Commission further served formal orders, issued under Section 21 of Shipping Act of 1916, directing sixteen (eight inbound and eight outbound) conferences and member lines thereof to furnish certain data considered relevant to analysis of alleged disparities between inbound and outbound rates. Compliance date was first set for December 31, 1963 but postponed to February 20, 1964.

The Commission acted not only in accordance with Section 21 of the 1916 Shipping Act but also pursuant to other sections of the Shipping Act of 1916, as well as pertinent sections of the Merchant Marine Act of 1936, under which the Commission is charged with regulatory responsibilities with respect to rates and practices of common carriers in water-borne foreign commerce of US.

2. Both Department and Maritime Commission have taken serious account

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account of reaction other governments and protests referred to in opening paragraph. In order to explain US position and to have full and frank discussion of the matter, Commission Chairman has agreed to meet in Paris under OECD auspices for discussion this current problem as well as to explore long range aspects of ocean freight rate regulation. We consider an ad hoc meeting, presumably at MTC level, appropriate.

3. Commission would explain American national interest in problem of freight rate disparities. Would stress legitimate need for factual explanation disparities in order meet clear legal mandate to study and report to Congress on rate disparities and to correct rates found unjustly discriminatory American exporters. Would express willingness consider European suggestions as to how required information may be obtained on voluntary basis.

4. Department suggests meeting be scheduled for week beginning February 10. Previous commitments by Chairman Harlee would prevent him attending earlier.

5. When plans further developed, addressee posts will be asked for comments on suggested US approach to OECD.

END

RUSK

LEGISLATIVE COUNSEL

JAN 9 2 28 PM '64

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